

Message Text

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FOLLOWING TEL SENT ACTION SECSTATE INFO BRASILIA, KINGSTON,
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TAGS: MTN, ETRD, BR, JA, MX, IN

MASUBJECT: BILATERAL CONSULTATIONS ON MTN GOVERNMENT
PROCUREMENT CODE

1. SUMMARY: MTN DEL (SHELLEY) MET WITH REPRESENTATIVES
OF INDIA (HEMRAJANI), BRAZIL (MORAO), JAMAICA (BARNETT),
AND MEXICO (DELGADO) TO DISCUSS DRAFTS FROM PLURI-
LATERAL SESSIONS AND UPCOMING GOVERNMENT PROCUREMENT
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(GP) MEETING. ALL DELS BELIEVED THAT DRAFTS OF PLURI-
LATERAL DC GROUP WERE A POSITIVE STEP TOWARD CREATING
A NEGOTIATING DOCUMENT, EMPHASIZED NEED FOR S&D, AND
CONSIDERED THAT AN INFORMAL MEETING OF DC'S AND LDC'S
WOULD BE USEFUL. END SUMMARY.

2. IN BILATERAL SESSIONS WITH KEY LDC'S, MTN DEL

EXPLAINED THE WORK THAT HAD BEEN UNDERTAKEN IN DC PLURILATERAL DRAFTING SESSIONS, AND ASSURED LDC REPS THAT DC'S WERE NOT ENGAGED IN AN EFFORT TO DRAFT A CODE THAT WOULD BE SUBSEQUENTLY IMPOSED ON THE SUB-GROUP. THE PURPOSE OF THE DC SESSIONS IS TO SEE IF A CONSENSUS DOCUMENT COULD BE AGREED WITH RESPECT TO VARIOUS AREAS OF GOVERNMENT PROCUREMENT WHICH WOULD THEN BE SUBMITTED TO THE SUBGROUP FOR ITS CONSIDERATION AND IDEAS. TOPIC ASSIGNMENTS HAD BEEN GIVEN TO INDIVIDUAL DELS TO GENERATE AN INITIAL DRAFT, BUT THE DRAFT DOCUMENTS EMERGING FROM PLURILATERAL MEETING REFLECTED THE IDEAS OF SEVERAL COUNTRIES. AFTER THE LAST PLURILATERAL SESSION, HOWEVER, EC MEMBER STATES FAILED TO GIVE APPROVAL TO COMMISSION'S WORK IN PLURILATERAL SESSIONS AND INSTRUCTED THE COMMISSION TO TABLE EC DRAFTS AS A SEPARATE DOCUMENT BASED ON THE OECD DRAFT. SINCE THE EC HAD ASSUMED RESPONSIBILITY FOR DRAFT PROVISIONS FOR SPECIAL AND DIFFERENTIAL TREATMENT FOR LDC'S, THE RESULT IS THAT NOW THE PLURILATERAL GROUP IS WITHOUT A SECTION ON S&D. MOST DELS ACCEPTED THIS EXPLANATION AND UNDERSTOOD THE SITUATION.

3. JAMAICA - JAMAICAN DEL STATED THAT THE FOUR PARAGRAPHS WERE ACCEPTABLE AS A BASIS FOR CREATING A NEGOTIATING DOCUMENT, BUT REGISTERED HIS CONCERN THAT THE EC DRAFT DID NOT GO FAR ENOUGH IN S&D. LIMITED OFFICIAL USE

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JAMAICA DEL WAS INTERESTED IN THE PROSPECT OF INCORPORATING SOME FORM OF STAGING INTO THE APPLICATION OF GP CODE. HE WAS QUICK TO EMPHASIZE THAT HE WAS NOT DISCUSSING GRADUATION BUT RATHER A FORM OF STAGING RIGHTS AND OBLIGATIONS OVER A PERIOD OF YEARS. JAMAICAN DEL WAS INTERESTED IN AN INFORMAL MEETING BETWEEN DC'S AND LDC'S THE WEEK OF THE SUB-GROUP MEETING.

4. INDIA - INDIAN DEL, CONCERNED WITH THE LACK OF S&D PROVISIONS, EMPHASIZED THAT FOR INDIA TO BECOME A SIGNATORY IT MUST BE ALLOWED TO CONTINUE DISCRIMINATION IN FAVOR OF CERTAIN DOMESTIC INDUSTRIES. INDIAN DEL EXPLAINED THAT EVEN WITHIN THE INDIAN GOVERNMENT THERE WAS DISCRIMINATION AMONG DIFFERENT PRODUCERS. FOR INSTANCE, SMALL COTTAGE INDUSTRIES WHICH PRODUCED AN ARTICLE THAT DOES NOT MEET STANDARDS APPLICABLE TO OTHER PRODUCERS, BUT WHICH WAS SUFFICIENT TO ACCOMPLISH ITS PRIMARY FUNCTION, WOULD RECEIVE A PREFERENCE OVER LARGER MANUFACTURERS- ADDITIONALLY, INDIAN DEL BELIEVED THAT, FOR DOMESTIC POLITICAL REASONS, CERTAIN INDIAN INDUSTRIES COULD NOT HAVE A NON-DISCRIMINATORY

GP CODE IMPOSED UPON THEM. INDIAN DEL HOWEVER WAS INTERESTED IN THE POSSIBILITY OF LDC'S BEING ABLE TO EXCLUDE CERTAIN DOMESTIC INDUSTRIES OF CRITICAL IMPORTANCE TO THE DOMESTIC ECONOMY FROM THE PROVISIONS OF A GP CODE. INDIAN DEL ALSO WAS INTERESTED IN INFORMAL MEETING BETWEEN DC'S AND LDC'S.

5. BRAZIL - BRAZILIAN DEL WAS FRANK IN DISCUSSING BRAZILIAN APPREHENSIONS ABOUT BECOMING SIGNATORY TO A GP CODE. HE INDICATED THAT EARLY IN THE MTN WHEN THE SUBJECT HAD ARISEN THE GOB HAD STATED THAT THIS WAS AN AREA THAT WAS "TOO HOT TO HANDLE", AND THEREFORE THEY HAD FOCUSED ON OTHER PARTS OF THE MTN. HOWEVER, AFTER IT APPEARED THAT SOMETHING MIGHT HAPPEN IN LIMITED OFFICIAL USE

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GOVERNMENT PROCUREMENT, THE GOB HAS REDIRECTED ITS ATTENTION TO THIS AREA. BRAZILIAN DEL'S PERSONAL OPINION WAS THAT REASON FOR GOB'S APPREHENSION ABOUT PARTICIPATING IN A GP CODE IS THAT (1) THE GOB ESTIMATE THAT APPROXIMATELY 60 PERCENT OF ITS GOVERNMENT PURCHASES MIGHT BE SUSCEPTABLE TO COMPETITION WITH FOREIGN IMPORTS WERE IT TO SIGN A GP CODE AND (2) THE GOB IS CONCERNED ABOUT THE EFFECT OF SUCH A CODE ON ITS JOINT VENTURES IN WHICH THE GOB IS A LARGE INVESTOR AND PARTNER. BRAZILIAN DEL WAS INTERESTED IN WHETHER THERE WAS A POSSIBILITY OF AN ENTITY-BY-ENTITY NEGOTIATION IN GOVERNMENT PROCUREMENT IN WHICH, AS A FORM OF S&D, LDC'S WOULD BE ABLE TO CONTRIBUTE LESS IN THE COVERAGE THAN DC'S.

6. MEXICO - MEXICAN DEL'S PRIMARY CONCERN WAS THE LACK OF SUBSTANTIVE S&D PROVISIONS. MEXICAN DEL INDICATED THE NEED FOR PROVISIONS PERMITTING DISCRIMINATION FOR LDC'S THAT COULD BE COUCHED IN TERMS OF ECONOMIC DEVELOPMENT. ADDITIONALLY, DELGADO STATED THAT THE TENDERING PROCEDURES MUST BE CAREFULLY EXAMINED TO INSURE THAT THEY ARE NOT SO RESTRICTIVE AS TO HINDER THE DOMESTIC DEVELOPMENT OF LDC'S. HE INDICATED THAT THE TECHNICAL ASSISTANCE GROUP OF THE GATT SECRETARIAT HAD DISTRIBUTED TO LDC'S A DETAILED LIST OF QUESTIONS FOR LDC'S TO CONSIDER IN RESPECT TO THEIR OWN DOMESTIC ECONOMIES TO ASSIST THEM IN DETERMINING WHAT TYPE OF S&D WOULD BE NECESSARY TO ENABLE THEM TO SIGN A CODE. SOME OF THE QUESTIONS INDICATE THAT THE SECRETARIAT HAS SUGGESTED CONSIDERATION OF THE TYPES OF INDUSTRIES WHICH LDC'S WOULD NEED TO HAVE PROTECTED AND WHICH INDUSTRIES PURCHASE ABROAD ALREADY. ANOTHER POINT RAISED BY THE MEXICAN DEL LIMITED OFFICIAL USE

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CONCERNED THE EVENTUAL NECESSITY OF RELATING THE MTN
CODES TO THE PROTOCOL SIXTEEN AGREEMENT. DELGADO IS
CONCERNED THAT THE PROVISIONS OF SOME OF THE MTN
CODES COULD PRECLUDE OR INFRINGE ON THE PROTOCOL
SIXTEEN RIGHTS. HE THOUGHT AN INFORMAL MEETING AMONG
DC'S AND LDC'S THE WEEK OF HE SUBGROUP MEETING WOULD
BE USEFUL.

7. DRAFTED BY SHELLEY. CULBERT UNQUOTE VANCE

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